

In re: DEL CAMPO PRODUCE, INC.
PACA Docket No. D-02-0018.
Decision Without Hearing by Reason of Default.
Filed October 17, 2002.

PACA – Default – Payment, failure to make full, prompt.

Charles E. Spicknall, for Complainant.
Respondent, Pro se.
Decision issued by Jill S. Clifton, Administrative Law Judge.

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agriculture Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*), [hereinafter referred to as the “Act”], instituted by a complaint filed on May 20, 2002, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. The complaint alleges that during the period November 1998 through June 2000, Respondent Del Campo Produce, Inc., [hereinafter “Respondent”], failed to make full payment promptly to fifteen sellers of the agreed purchase prices, or balances thereof, in the total amount of \$335,174.93 for 193 lots of perishable agricultural commodities which it received, accepted and sold in interstate and foreign commerce.

A copy of the complaint filed on May 20, 2002 was sent to the Respondent at 60 East Terminal Produce Drive, Nogales, Arizona 85621 and P.O. Box 1404, Nogales, Arizona 85628 by certified mail on the filing date. The complaints were unclaimed or refused by Respondent and returned by the postal service to the Hearing Clerk. Pursuant to section 1.147(c) of the Rules of Practice, (7 C.F.R. § 1.147(c)), on June 6, 2002, the complaint was sent by regular mail to 60 East Terminal Produce Drive, Nogales, Arizona 85621. Similarly, on June 13, 2002 the complaint was sent once again by regular mail to P.O. Box 1404, Nogales, Arizona 85628. No answer to the complaint has been received. The time for filing an answer having expired, and upon motion of the Complainant for the issuance of a Default Order, the following Decision and Order shall be issued without further proceedings pursuant to Section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent is a corporation organized and existing under the laws of the State of Arizona. Its business address was 60 East Terminal Produce Drive, Nogales, Arizona 85621. Its mailing address is P.O. Box 1404, Nogales,

Arizona 85628-1404.

2. At all times material herein, Respondent was licensed under the provisions of the Act. License number 800264 was issued to Respondent on December 12, 1979. This license terminated on December 12, 2000, pursuant to Section 4(a) of the Act, (7 U.S.C. § 499d(a)), when Respondent failed to pay the required annual renewal fee.

3. As more fully set forth in paragraph III of the complaint, during the period November 1998 through June 2000, Respondent purchased, received and accepted in interstate and foreign commerce, from fifteen sellers, 193 lots of fruits and vegetables, all being perishable agricultural commodities, but failed to make full payment promptly of the agreed purchase prices, in the total amount of \$335,174.93.

Conclusions

Respondent's failure to make full payment promptly with respect to the 193 transactions set forth in Finding of Fact No. 3 above, constitutes willful, repeated and flagrant violations of Section 2(4) of the Act (7 U.S.C. § 499b(4)), for which the Order below is issued.

Order

A finding is made that Respondent has committed willful, flagrant and repeated violations of Section 2 of the Act (7 U.S.C. 499b(4)), and the facts and circumstances set forth above shall be published.

This Order shall take effect on the eleventh day after this Decision becomes final.

Pursuant to the Rules of Practice, this Decision will become final without further proceedings thirty-five days after service hereof unless appealed to the Secretary by a party to the proceeding within thirty days after service as provided in Sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§ 1.139, 1.145).

Copies hereof shall be served upon parties.

[Note: This Decision and Order became final December 4, 2002. - Editor]
